

# HOUSE BILL REPORT

## HB 1205

---

**As Reported by House Committee On:**  
Criminal Justice & Corrections

**Title:** An act relating to decriminalizing "fine-only" misdemeanors.

**Brief Description:** Decriminalizing "fine-only" misdemeanors.

**Sponsors:** Representatives O'Brien, Appleton and Chase.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 2/1/05, 2/10/05 [DPS].

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Changes many fine-only misdemeanors into civil infractions.</li></ul>
--



---

### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Kirby.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Strow.

**Staff:** Christopher Abbott (786-7119), Yvonne Walker (786-7841).

**Background:**

Fine-Only Misdemeanors

Misdemeanors carry a default maximum penalty of a \$1,000 fine and 90 days imprisonment in a county jail. For many minor offenses, however, penalty statutes specify a lower maximum fine and do not provide for any imprisonment at all. These "fine-only" misdemeanors include the following (not an exhaustive list):

- erecting, causing, or contriving a public or common nuisance (\$1,000 fine);
- refilling for sale trademarked or labeled bottles without permission from the label or mark's owner (which may carry various penalties under trademark infringement statutes);
- violating statutory requirements for stamps and coupons redeemable for goods or money (\$100 - \$1,000 fine);

- filing incomplete, untimely, or inaccurate information from a nonprofit corporation in required filings or annual reports to the Secretary of State (\$0-\$500 fine, may be assessed against the corporation or its directors and officers);
- violating statutory requirements for ceremonies solemnizing a marriage (a \$20-\$300 fine if failing to timely file a marriage certificate, and \$100-\$500 for either not being authorized to solemnize marriages or solemnizing an unlawful marriage);
- spending by school district officials that exceeds annual revenues (\$0-\$500 fine);
- failure of local government officials to comply with filing, notice, and spending rules for local government budgets (\$0-\$500 fine);
- violating regulations governing fraternal benefit societies (a \$50-\$200 fine for soliciting membership in an unlicensed society and a \$0-\$200 fine for violating other state rules regarding fraternal societies);
- retaliating against employees who testify about employer violations of wage and working conditions regulations (\$25-\$100 fine);
- violating statutes and rules governing alcohol servers (\$0-\$250 fine for the first offense, \$0-\$500 fine and zero to 90 days imprisonment for the second offense);
- polluting a watershed that leads to a city or municipal corporation's water supply (\$0-\$500 fine);
- violating safety regulations for water recreation facilities (\$0-\$500 fine);
- violating regulations for waste treatment plants (\$0-\$100 fine);
- violating regulations for water supply systems (\$0-\$100 fine);
- violating regulations governing the education of children with sensory impairments (\$50-\$200 fine);
- charging fees to process pension papers filed by veterans (\$10-\$50 fine);
- violating mining corporation statutes (\$0-\$200 fine);
- violating equipment requirements for railroad motor track cars (\$0-\$100 fine);
- denying the Department of Revenue access to company records or properties or refusing a summons to appear as a witness (\$50-\$5,000 fine);
- violating boat registration requirements (a \$0-\$100 fine for the first offense, \$0-\$200 fine for the second offense, and \$0-\$400 fine for subsequent offenses);
- violating statutes governing artesian wells (\$0-\$200 fine); and
- violating food locker regulations (first offense is at least a \$100 fine and a subsequent offense is at least a \$200 fine).

#### Misdemeanors vs. Civil Infractions

The primary difference between "fine-only" misdemeanors and civil infractions relate to constitutional due process requirements. More safeguards are required when a person is charged with a misdemeanor. For example, criminal defendants have a right to a jury trial and the prosecution must prove all elements of the offense beyond a reasonable doubt. Additionally, failure to appear in court does not result in a default judgment. Civil infractions have a lower standard of proof (preponderance of the evidence), do not confer a right to a jury trial on the defendant and allow default judgments for failure to appear.

The maximum penalty for civil infractions are: \$250 for a class 1 civil infraction; \$125 for a class 2 civil infraction; \$50 for a class 3 civil infraction; and \$25 for a class 4 civil infraction.

---

### **Summary of Substitute Bill:**

"Fine-only" misdemeanor offenses are converted into civil infractions. The statutory fines are replaced with classification as either a class 1, 2, 3, or 4 infraction.

The result of converting some misdemeanors offenses into civil infractions is that the maximum penalties for several offenses are lowered. For example, the maximum penalty is lowered from \$500 to \$250 (the maximum penalty for a class 1 civil infraction) for offenses including inadequate disclosure of information in required filings to the Secretary of State by nonprofit corporations, unlawful solemnization of a marriage, violation of local government budget rules, and pollution of local water supplies among others.

The following "fine-only" misdemeanors are converted into civil infractions:

- erecting, causing, or contriving a public or common nuisance (\$1,000 penalty)
- refilling for sale trademarked or labeled bottles without permission from the label or mark's owner (class 1 civil infraction);
- violating statutory requirements for stamps and coupons redeemable for goods or money (class 1 civil infraction);
- filing incomplete, untimely, or inaccurate information from a nonprofit corporation in required filings or annual reports to the Secretary of State (class 1 civil infraction);
- violating statutory requirements for ceremonies solemnizing a marriage (class 1 civil infraction for all offenses in this category);
- spending by school district officials that exceeds annual revenues (class 1 civil infraction);
- failure of local government officials to comply with filing, notice, and spending rules for local government budgets (class 1 civil infraction);
- violating regulations governing fraternal benefit societies (class 2 civil infraction for all offenses in this category);
- retaliating against employees who testify about employer violations of wage and working condition regulations (class 2 civil infraction);
- violating statutes and rules governing alcohol servers (class 1 civil infraction for the first offense, subsequent offenses remain misdemeanors);
- polluting a watershed that leads to a city or municipal corporation's water supply (class 1 civil infraction);
- violating safety regulations for water recreation facilities (class 1 civil infraction);
- violating regulations for waste treatment plants (class 2 civil infraction);
- violating regulations for water supply systems (class 2 civil infraction);
- violating regulations governing the education of children with sensory impairments (class 1 civil infraction);
- charging fees to process pension papers filed by veterans (class 3 civil infraction);
- violating mining corporation statutes (class 1 civil infraction);

- violating equipment requirements for railroad motor track cars (class 3 civil infraction);
- denying the Department of Revenue access to company records or properties or refusing a summons to appear as a witness (class 1 civil infraction);
- violating boat registration requirements (first offense is a class 3 civil infraction, second offense is a class 2 civil infraction, and subsequent offenses are class 1 civil infractions); and
- violating statutes governing artesian wells (class 1 civil infraction).

The penalty provision for violating food locker regulations is repealed.

**Substitute Bill Compared to Original Bill:**

The substitute bill converts three additional offenses into civil infractions: violation of statutes and rules governing alcohol servers, creating a public nuisance, and violation of statutory budget rules by city and town officials in cities and towns not adopting a biennial budget to the offenses converted into civil infractions. Provisions of the original bill relating to violation of commercial feed regulations and cutting ears of domestic animals are removed. Finally, instead of converting violation of food locker regulations into a civil infraction, the substitute bill repeals the penalty provision altogether.

---

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (Original bill) This is a cleanup bill. Labeling fine-only offenses as misdemeanors creates a lot of additional procedure and expense to the judicial system. Because these are misdemeanors, municipal and district court judges can't enforce the law by issuing a default judgment or a bench warrant if the defendant fails to appear. Converting these offenses into civil infractions would allow the courts to enforce these laws.

**Testimony Against:** None.

**Persons Testifying:** (In support of original bill) Tom McBride, Washington Association of Prosecuting Attorneys and Judge Marilyn Paja, District and Municipal Court Judges Association.

**Persons Signed In To Testify But Not Testifying:** None.